

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Karen Thomas, Case Manager
 JL Joel Lawson, Associate Director Development Review
DATE: February 17, 2015
SUBJECT: BZA Case 18923: 2918 Martin Luther King Jr. Avenue, S.E.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following:

- § 733, Fast Food Restaurants in the C-2-A zone.

Subject to the following conditions:

1. Approval shall be for **one (1) year** at the date of issuance of the order.
2. The applicant will continue to meet with the ANC regularly to address building condition concerns identified by the ANC.

II. LOCATION AND SITE DESCRIPTION

Address	2918 Martin Luther King Jr. Ave SE
Legal Description	Square 5951, Lot 0030
Ward	8/8C03
Lot Characteristics	Rectangular-shaped lot, abutting other properties within the C-2-A District. No alley access.
Zoning	C-2-A: Moderate density community business center
Existing Development	One-story commercial building, which abuts commercial properties on three sides.
Adjacent Properties	North: 2-story brick commercial structure South: single-story commercial structure with three businesses within. East: Irregularly-shaped lot with a commercial structure which fronts on Malcolm X Avenue SE West: Martin Luther King Jr. Ave. and properties opposite, also within the C-2-A zone district.
Surrounding Neighborhood Character	Commercial buildings on Martin Luther King Jr., Avenue, with low to density residential development in the R-2 zone district east of the square.

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III. APPLICATION-IN-BRIEF

The applicant proposes to continue the operation of China Inn Deli, a fast-food carry-out and delivery, within an existing one-story commercial structure. The applicant is the new lessee of the commercial space within the building. There is no use change and no building construction is proposed.

Pedestrian access to the carry-out exists from Martin Luther King Jr. Avenue. Deliveries are made to the front of the building, from Martin Luther King Jr. Avenue. No seating is provided and the operation does not require parking for customers.

Daily hours of operation are Monday through Thursday 11:00 am to 11:30 pm, Friday and Saturday 11:00 am to 12:30am and Sundays 12:00 pm to 11:30 pm.

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

C-2-A Zone	Regulation	Existing	Proposed	Relief
Use § 733	Fast food per S/E	Fast Food	Fast Food	Special Exception

V. OFFICE OF PLANNING ANALYSIS

Special Exception Relief pursuant to § 733, Fast Food Restaurants in C-2-A Districts

733.2 *No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley.*

The subject property directly abuts other properties within the C-2-A zone district and is not within twenty-five feet (25 ft.) of a Residence District.

733.3 *If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot.*

No lot line of the subject property abuts an alley containing the zone district boundary for a Residence District.

733.4 *Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District.*

Since there is no access to the alley for the subject carryout, this criterion does not apply.

Nevertheless, trash dumpsters for the subject operation and three other neighboring businesses within the square, fronting on Martin Luther King Jr. Avenue are located in the alley, as shown in the applicant's submission and observed on OP's site visit. The dumpsters are located in the C-2-A district and face the parking area for businesses across the east/west alley. OP has not heard from the Public Space Committee whether this is an issue that would require their review.



733.5 *The use shall not include a drive-through.*

No drive-through currently exists and none is proposed.

733.6 *There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone district boundary line for a Residence District.*

The only customer entrance is at the front, facing Martin Luther King Jr. Ave SE.

733.7 *The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions.*

OP has not received any indication that there is cause for concern in this regard. A ventilation system is utilized to control odors. The operating hours are Monday through Thursday 11:00 am to 11:30 pm, Friday and Saturday 11:00 am to 12:30 am and Sundays 12:00 pm to 11:30 pm. OP was informed by the ANC that there

were concerns with the physical appearance and condition of the building. The applicant was informed and OP understands that communication to resolve these and other issues between the applicant/lessee and the ANC would be on-going.

- 733.8 *The use shall provide sufficient off-street parking, but not less than that required by § 2101.1, to accommodate the needs of patrons and employees.*

No off-street parking is required for this business as its area contains less than 3,000 square feet.

- 733.9 *The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions.*

All refuse removal currently occurs via the public alley to the north as indicated in the prior photo. All loading activities take place from Martin Luther King Jr. Avenue, as there is no alley access at the rear of buildings, which front the Avenue in this portion of the square.

- 733.10 *There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site.*

Trash is collected from an alley to the north of the lot. OP has no information that trash removal has been an issue at this location. No comments were received from Public Space to date regarding this long-standing situation.

- 733.11 *The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property.*

OP has no additional recommendation to provide beyond what currently exists for trash pick-up or storage. Trash is picked up by a commercial service 3 times per week. OP is recommending one year term of approval, to allow the applicant to continue to meet with the ANC to address building condition issues.

- 733.12 *An applicant for special exception under this section may request the Board to modify the conditions enumerated in §§ 733.2 through 733.4; provided that the general purposes and intent of this section are complied with.*

No condition is requested to be modified.

a. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

The current and proposed use, a fast food restaurant, is consistent and compatible with the C-2-A low to moderate density commercial district. As the use is also in conformance with the provision of Section 733 of the Zoning Regulations, it is in harmony with the Zoning Regulations and Zoning Maps.

b. Would the proposal appear to tend to affect adversely, the use of neighboring property?

The proposal would continue a fast food restaurant in a commercial district that includes other fast-food establishments and small grocery stores, complementary of the existing array of neighborhood serving uses. The location is within the C-2-A zone district where these uses are permitted and it is not anticipated to affect adversely, the use of neighboring property.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

Comments from other agencies were not received.

VII. COMMUNITY COMMENTS

The applicant met with ANC 8C to discuss the application at the ANC's its regularly scheduled meeting of February 3, 2015. The ANC will submit their report under separate cover.

OP recommends that the applicant continue to work with the ANC to address neighborhood concerns identified at that meeting.

Attachment: Location Map

LOCATION and ZONING MAP

